

01-R -0143

Entered - 5-7-99 - sb
CL99L0257 - ALEXIS HOLMES

CLAIM OF: Arthur and Mary Lee Fulmer
Through their Attorney
H.J.A. Alexander, Esq.
Alexander Law Firm
2160 High Point Trail
Atlanta, Georgia 30331

For alleged damages sustained as a result of a fall on a sidewalk on
January 28, 1999 at Martin Luther King, Jr. Drive.

THIS ADVERSED REPORT IS APPROVED

BY: Rosalind Rubens Newell by Robert N. Coyle
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 99L0257

Date: 1/11/01

Claimant /Victim ARTHUR FULMER and MARY LEE FULMER

BY: (Atty) H.J.A., Alexander Law Firm, P.C.

Address: 2160 Highpoint Trail, Atlanta, Georgia 30331

Subrogation: Claim for Property damage \$ Bodily Injury \$ 425,000.00

Date of Notice: 4/13/99 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 1/28/99 Place: Martin Luther King Drive between Prior and Central Streets.

Department Public Works Division: Street Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: Claimant alleges that he tripped and fell due to the broken, protruding rise in the concrete sidewalk and severely injured his right shoulder and face. However, the claimants' attorney has filed a formal lawsuit to resolve the issues raised in this claim.

INVESTIGATION:

Statements: City employee Claimant Other Written X Oral

Pictures Diagrams Reports: Police X Dept Report X Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental Ministerial X

Improper Notice More than Six Months Other X Damages reasonable

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,


INVESTIGATOR - ALEXIS HOLMES

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01

Claims Manager:  Concur/date 01-18-01

Committee Action: Council Action

ALEXANDER LAW FIRM, P.C.
2160 HIGH POINT TRAIL
ATLANTA, GEORGIA 30331

JORDAN
04/21/99

H.J.A. Alexander, Esq., C.P.A.
Telephone: 404-346-0834
Telecopier: 404-346-0835

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April 9, 1999

Mailing Address
P.O. Box 310046
Atlanta, Georgia 31131
Internet Address: HJAA@aol.com

Via Certified Mail #Z 398 166 909
and U.S. Mail

The Hon. William C. Campbell
Mayor, City of Atlanta
City Hall, Suite 2400
55 Trinity Avenue SW
Atlanta, Georgia 30335

Via Certified Mail #Z 398 166 910
and U.S. Mail

The Hon. Robert L. Pitts, Chairman
Atlanta City Council
City Hall, Suite 2900
55 Trinity Avenue SW
Atlanta, Georgia 30335

Via Certified Mail #Z 398 166 911
and U.S. Mail

The Hon. Mike Kenn
Chairman, Fulton County Board
of Commissioners
Government Center, Tower
Suite 10035
141 Pryor Street SW
Atlanta, Georgia 30303

RECEIVED

APR 13 1999

PRESIDENT'S OFFICE

Re: Fulmer v. City of Atlanta and Fulton County
HJAA #99014

Dear Messrs Campbell, Pitts, and Kenn:

This Firm has been retained to represent Mr. and Mrs. Fulmer regarding their claim against the City of Atlanta and Fulton County arising from the injuries Mr. Fulmer suffered on January 28, 1999. Mr. Fulmer tripped and fell due to the broken, protruding rise in the concrete sidewalk on the northern side of Martin Luther King, Jr. Drive between Pryor Street and Central Avenue. Due to the fall Mr. Fulmer's right shoulder was severely injured. His face was also hurt, but not severely. Since the fall, in addition to pain and suffering, he has incurred substantial medical expenses, and loss of income. Mrs. Fulmer seeks recovery for loss of consortium.

Mr. Fulmer's fall was due to the failure of the City to properly maintain the

sidewalk, and the County's employee in negligently directing Mr. Fulmer in the pathway of the protruding, uneven, broken concrete sidewalk during an emergency in County's building located at 141 Pryor Street.

Though not an employee of the County, Mr. Fulmer worked at 141 Pryor Street. On January 28, 1999 at approximately 2:00p.m. an announcement was made over the public address system that "A condition exists within the facility; please exit immediately; do not take elevators, proceed to the stair to your designated areas". He was told that the designated area was at the Sloppy Floyd building across from the State Capitol building.

Persons who Mr. Fulmer believes were Fulton County employees acting in their official capacities were directing the crowd of people at a quick pace from the building in the northern direction across MLK, Jr. Drive, then east across Pryor Street onto and down the concrete sidewalk parallel to the northern edge of MLK, Jr. Drive.

Mr. Fulmer followed the instructions until he reached the entrance/exit of the Underground parking lot on the said sidewalk when suddenly his right foot caught the rising protrusion of the broken sidewalk, causing his 300 pound body of fall, causing severe injury to his right shoulder.

This notice is being given to you pursuant to O.C.G.A. §§ 36-11-1 and 36-33-5(b). Upon failure of the City and County to settle the claim within thirty (30) days, litigation will be initiated.

With kind regards,

Sincerely,



H.J.A. Alexander
For the Firm